

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

SHAWN THOMAS,

Plaintiff,

v.

**Civil Action 2:10-cv-152
Judge James L. Graham
Magistrate Judge Elizabeth P. Deavers**

MR. McDOWELL, *et al.*,

Defendants.

ORDER

This matter is before the Court for consideration of the September 25, 2012 Report and Recommendation of the United States Magistrate Judge, to whom this case was referred pursuant to 28 U.S.C. § 636(b). (ECF No. 103.) Upon screening Plaintiff's Amended Complaint under 28 U.S.C. §§ 1915(e)(2) and 1915A, the Magistrate Judge recommended that the Court dismiss Plaintiff's medical indifference and conspiracy claims for failure to state a claim pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) and that Messrs. Cook, McDowell, and Gleen be dismissed as Defendants.

The Report and Recommendation specifically advises Plaintiff that the failure to object to the Report and Recommendation within fourteen days of the Report results in a "waiver of the right to de novo review . . . by the District Judge and waiver of the right to appeal the judgment of the District Court." (Report and Recommendation 11, ECF No. 103.) The time period for filing objections to the Report and Recommendation has expired. Plaintiff has not objected to the Report and Recommendation.

The Court has reviewed the Report and Recommendation. Noting that no objections have been filed and that the time for filing such objections has expired, the Court **ADOPTS** the Report and Recommendation. (ECF No. 103.) Accordingly, Plaintiff's conspiracy claim and his claims against Defendants Cook, McDowell, and Gleen are **DISMISSED** for failure to state a claim pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii). Plaintiff may proceed only on his excessive force claims against Defendants Pennington, and Eitell, his retaliation claims against Defendants Pennington and Eitell, and his Eighth Amendment cruel and unusual punishment claim against Defendant Young.

IT IS SO ORDERED.

S/ James L. Graham
James L. Graham
UNITED STATES DISTRICT COURT

Date: October 17, 2012